

MONROE COUNTY CLERK'S OFFICE

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Receipt #

Book Page

Return To:

CARL JACOB SCHWARTZ JR
131 Main St., Suites 201-210
PO Box 681
Penn Yan, NY 14527

No. Pages: 7

Instrument: MISCELLANEOUS DOCUMENT

Control #: Unrecorded #7843953
Index #: Unassigned-1417651

Date:

Schwartz, Kerri W. Psy. D.
Schwartz, Carl J. J.D.

Time:

Frenzel, Mark
Taddanio, Kimberly RN
Devore, Cynthia D. M.D.
Zucker, Howard M.D.

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

ADAM J BELLO

MONROE COUNTY CLERK



**STATE OF NEW YORK, SUPREME COURT
COUNTY OF MONROE**

**Kerri W. Schwartz, Psy D.
Carl J. Schwartz, Jr., J.D., MA Th.**

Plaintiffs,

**COMPLAINT AND VERIFIED
ARTICLE 78 PETITION**

v.

Index Number _____

**Mark Frenzel, in his official capacity as
Principal of Monroe One BOCES, Fairport**

**Kimberly Taddonio, in her official capacity as
Clinical Nurse Manager of Monroe
One BOCES, Fairport**

**Doctor Cynthia D. Devore, in her official
capacity as Doctor of Monroe BOCES,
Fairport**

**Doctor Howard Zucker, in his official capacity
as Commissioner of Health, NYS**

Defendants.

Plaintiffs, Kerri W. Schwartz and Carl J. Schwartz, Jr., by and through their attorney, Carl J. Schwartz, Jr., Esq., as and for their Complaint and Verified Petition in the above captioned proceeding, respectfully allege as follows:

1. Plaintiffs reside at [REDACTED] Penn Yan, New York 14527, and are the

parents of Thorn [REDACTED], a student at Monroe BOCES One, Creekside in

Fairport, New York, since the Spring of 2016.

2. Defendants are the school officials who administrate the programming at Creekside in their specific capacity as set forth herein above.

3. Last week, on or about Wednesday September 11th, Plaintiffs received in the mail a notice dated September 9th that advised that the parties son, Thorn Sterling Schwartz, would not be

able to continue to attend school after September 18th, a week after Plaintiffs received said notice, unless Thorn Schwartz received certain vaccinations, of which the notice was not properly filled out as the notice indicated doses for vaccinations not checked off on the list, a copy of said notice with the cover letter from the school principal being attached hereto to be made a part hereof by reference.

4. Thorn Sterling Schwartz has received many of his vaccinations and has been given a medical exemption by his medical doctor, Robert Ostrander, due to the risk vaccinations pose to Thorn given his vulnerable condition, see Plaintiffs Affidavits attached hereto to be made a part hereof by reference.

5. There has been no change in the law regarding medical exemptions but in response to the recent change in the law regarding religious exemptions, Dr. Howard Zucker, Commissioner of Health for the State of New York, upon having changed the rules and regulations regarding medical exemptions announced "These regulations will ensure that those who have legitimate medical reasons for not getting vaccinated are still able to obtain medical exemptions, while also preventing abuse of this option by those without such medical conditions."

6. It is unimaginable that an administrative medical doctor could legally substitute their opinion as a non-attending physician over the professional opinions of the attending physicians of the many disabled students who attend school in the State of New York, to say nothing of how little notice was given to the families of the disabled.

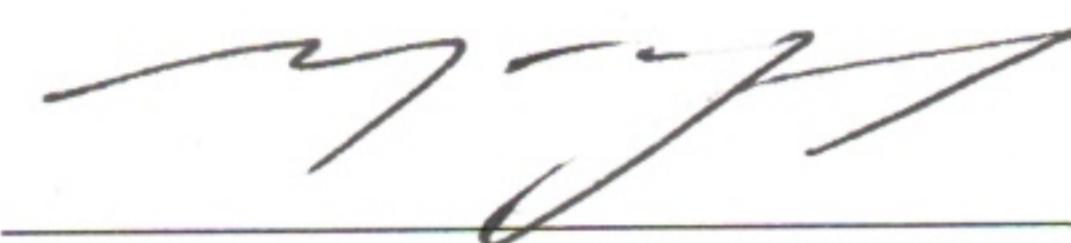
7. Disabled individuals and their family members are not able to prescribe for themselves medical exemptions as such can only be prescribed by medical doctors.

8. By his statement referenced herein above, Commissioner Zucker reveals that he believes that medical doctors are abusing the medical exemption.

9. If medical doctors are abusing the medical exemption, then as Commissioner of Health for the State of New York, Dr. Zucker should be concerning himself with the governance of his State's medical doctors not indiscriminately overriding all of the medical findings of the attending physicians who are personally familiar with bodies of their patients.

WHEREFORE, Plaintiffs seek an order against Defendants allowing Thorn Sterling Schwartz to continue attending school at Monroe BOCES One, Creekside, in Fairport, New York, with the medical exemption granted by his attending physician, Robert Ostrander; and, ordering Defendants to honor the medical exemptions of all students granted by their respective physicians in the Monroe public school system.

DATED: September 16, 2019

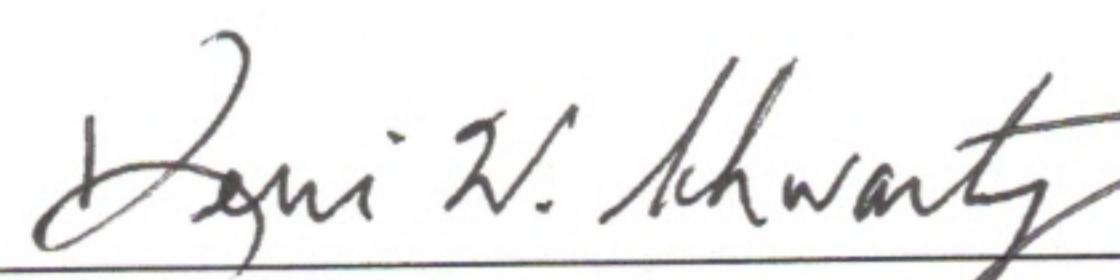


Carl J. Schwartz, Jr., Esquire
Attorney for Plaintiff
131 Main Street, Suites 201-204
P.O. Box 681
Penn Yan, New York 14527
(315) 536-4223

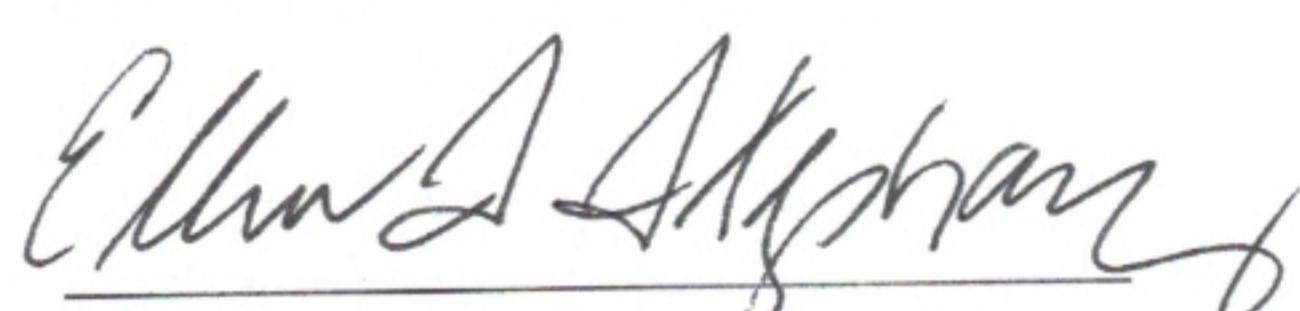
STATE OF NEW YORK, COUNTY OF YATES ss:

I, Kerri W. Schwartz, am the Plaintiff in the within action. I have read the foregoing complaint and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

Subscribed and Sworn to
before me on September 16, 2019



ELLEN S. Plaintiff's Signature
NOTARY PUBLIC, State of New York
No. 04ST6003384
Qualified in Yates County
My Commission Expires 3/02/2022

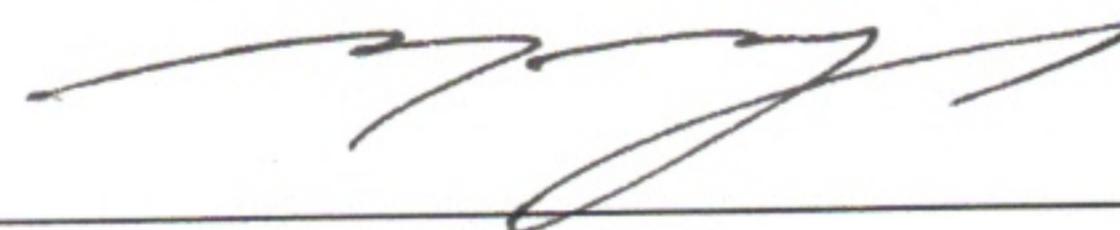


NOTARY PUBLIC

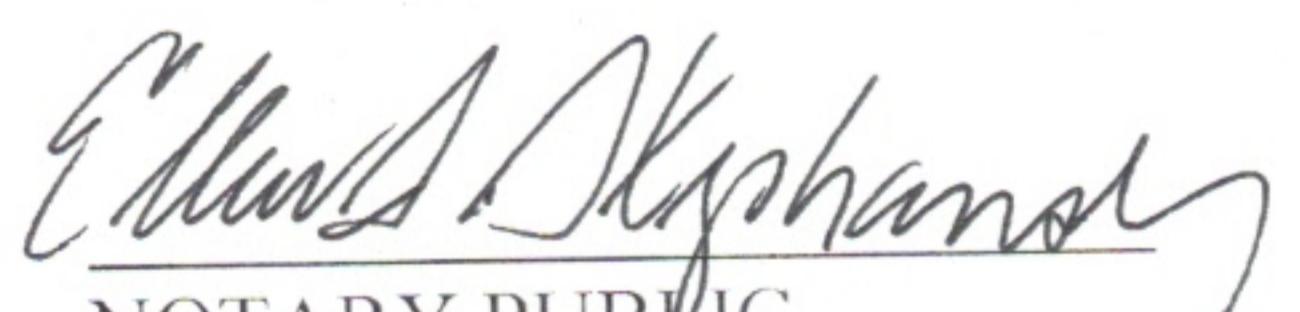
STATE OF NEW YORK, COUNTY OF YATES ss:

I, Carl J. Schwartz, Jr., am the Plaintiff in the within action. I have read the foregoing complaint and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

Subscribed and Sworn to
before me on September 16, 2019



Plaintiff's Signature



NOTARY PUBLIC

ELLEN S. STEPHANSKI
NOTARY PUBLIC, State of New York
No. 04ST6003384
Qualified in Yates County
My Commission Expires 3/02/2022

Finger Lakes Law Group
ADVOCATING WITH
INTEGRITY
THE LOWN'S BUILDING
SUITES 201-210
131 MAIN STREET
P.O. BOX 681
PENN YAN, NY
14527



monroe one
EDUCATIONAL SERVICES

Kimberly Taddonio
Clinical Nurse Manager, RN, BSN

September 9, 2019

Dear Parent/Guardian: *Mandi M. Schwartz*

Your request for a medical exemption has been reviewed by our district physician and unfortunately is not consistent with guidance from the Advisory Committee on Immunization Practices (ACIP) of Centers for Disease Control (CDC) for medical contraindications or precautions and, therefore, cannot be accepted as a valid basis for not getting mandatory vaccines to enter school.

See <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html>

Sincerely,

Handwritten signature of Mark Frenzel.

Mark Frenzel
Principal

First letter to parent: *9/9/19*

BIRD/MORGAN NURSE • p: 388-2450 • f: 586-1541
FOREMAN CENTER NURSE • p: 383-6416 • f: 383-6425
O'CONNOR ACADEMY NURSE • p: 249-7251 • f: 387-3836